

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RONALD H. FOSTER,

Plaintiff,

V.

AUTHOR SUCCESS
PUBLISHING, *et al.*,

Defendants.

CASE NO. 2:25-CV-545-RAH

ORDER

Plaintiff initiated this action on July 21, 2025, with the filing of his Complaint. Plaintiff also filed two Motions for Summary Judgment against all defendants, who at present remain unserved. (*See* docs. 4 & 5.) Since then, Plaintiff has filed a host of motions asking for expedited rulings, hearings, and discovery, all despite not having served any of the defendants. (*See, e.g.*, docs. 2, 11 & 17.) In denying his Motion for Temporary Restraining Order, this Court has also notified Plaintiff of the shotgun nature of his Complaint. (*See* doc. 18.) Plaintiff has yet to cure these issues.

On August 8, 2025, the Magistrate Judge recommended that Plaintiff's two summary judgment motions be denied without prejudice. (*See* doc. 21.) The Magistrate Judge noted Plaintiff's failure to comply with the requirements of, or otherwise meet his initial burden under, Federal Rule of Civil Procedure 56, as well as the confusing nature of his motions.

On August 18, 2025, Plaintiff filed an Objection. (*See* doc. 24.) Plaintiff argues the Magistrate Judge overlooked the verified nature of his complaint allegations and the absence of any genuine facts because the Defendants have not

appeared. Plaintiff also claims he should be afforded an opportunity to cure his deficiencies.

When a party objects to a magistrate judge's report and recommendation, the district court must review the disputed portions *de novo*. 28 U.S.C. § 636(b)(1). The district court “may accept, reject, or modify the recommended disposition; receive further evidence; or resubmit the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3). *De novo* review requires that the district court independently consider factual issues based on the record. *Jeffrey S. ex rel. Ernest S. v. State Bd. of Educ.*, 896 F.2d 507, 513 (11th Cir. 1990). *See also United States v. Opie*, 347 F. App'x 495, 499 n.1 (11th Cir. 2009). However, objections to the magistrate judge's report and recommendation must be sufficiently specific to warrant *de novo* review. *See Macort v. Prem, Inc.*, 208 F. App'x 781, 783–85 (11th Cir. 2006). Otherwise, a report and recommendation is reviewed for clear error. *Id.*

This Court has conducted an independent and *de novo* review of the record. Based on that review, the Magistrate Judge’s recommendation is due to be affirmed. Simply put, Plaintiff’s summary judgment motions do not comply with Rule 56. The reason that Plaintiff’s factual allegations have not been rebutted is because Plaintiff has not served the Defendants. As the Magistrate Judge stated, Plaintiff’s summary judgment motions are premature. Since the Magistrate Judge recommends that the motions be denied without prejudice, Plaintiff will be allowed to refile his summary judgment motions at a later date, after the Defendants have been properly served. In that filing, Plaintiff shall cure the noted deficiencies and comply with Rule 56.


Furthermore, as this Court has previously noted, Plaintiff’s Complaint is a classic shotgun pleading. The deficiencies associated with the Complaint were noted in this Court’s order (*see* doc. 18) denying Plaintiff’s Motion for a Temporary Restraining Order. Plaintiff shall file an amended complaint on or by **September 3, 2025**, that cures his pleading deficiencies. Plaintiff is **CAUTIONED** that failure to

do so may result in this case being dismissed. Plaintiff is also **CAUTIONED** of his obligation to properly served each of the Defendants. Otherwise, the Defendants may be dismissed by operation of Rule 4(m), Federal Rules of Civil Procedure.

Accordingly, upon an independent and *de novo* review of the record, it is **ORDERED** as follows:

1. Plaintiff's Objection (doc. 24) is **OVERRULED**;
2. The Recommendation (doc. 21) is **ADOPTED**;
3. Plaintiff's Motions for Summary Judgment (docs. 4, 5) are **DENIED** without prejudice;
4. Plaintiff shall file an Amended Complaint on or by **September 4, 2025**; and,
5. This case is referred back to the Magistrate Judge for all further proceedings.

DONE, on this the 20th day of August 2025.



R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE